

SECOND REGULAR SESSION

# HOUSE BILL NO. 1679

96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FRANZ.

5350L.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To amend chapter 144, RSMo, by adding thereto one new section relating to sales and use tax collection.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 144, RSMo, is amended by adding thereto one new section, to be  
2 known as section 144.001, to read as follows:

3       **144.001. 1. This section shall be known and may be cited as the "Sales Tax**  
4 **Technology Act".**

5       **2. As used in this section, the following terms mean:**

6       **(1) "Automated sales and use tax collection system", a technology system capable**  
7 **of automatic collection and remittance of state and local sales and use tax collections by a**  
8 **seller on any sales and use tax transaction when the original payment is made by a credit**  
9 **or debit card by the purchaser;**

10       **(2) "Delinquent business", any business that has exhausted all remedies to appeal**  
11 **a decision of a court of competent jurisdiction under this chapter relating to nonfiling,**  
12 **nonpayment, or late payment of state and local sales or use taxes in this state on or after**  
13 **July 1, 2013;**

14       **(3) "Director", the director of the department of revenue or the director's designee;**

15       **(4) "Electronic cash register system", any electronic cash register system capable**  
16 **of processing the automated sales and use tax collection system, unless implementation is**  
17 **deferred as provided in this section;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16           (5) "New business", any business with sales and use tax transactions that  
17 commences operations in this state on or after July 1, 2013, unless implementation is  
18 deferred as provided in this section;

19           (6) "Other business", any business that is not a new business or delinquent business  
20 as defined in this section;

21           (7) "Payment service provider", the payment service provider capable of  
22 processing an automated sales and use tax collection transaction via the automated sales  
23 and use tax collection system;

24           (8) "Sales and use tax transaction", any taxable transaction as levied by this  
25 chapter;

26           (9) "Third-party tax collection and remittance provider", the third-party tax  
27 collection and remittance provider capable of providing an automated sales and use tax  
28 collection system that has contracted with the director to implement the automated sales  
29 and use tax collection system and that provides for direct payment to the department of  
30 revenue for all credit and debit card transactions involving the collection and remittance  
31 of sales or use tax on transactions processed through the electronic cash register system  
32 and then processed through a payment service provider.

33           3. On July 1, 2013, the department of revenue shall implement an automated sales  
34 and use tax system for the collection and remittance of state and local sales and use taxes.  
35 The system shall be mandatory for any new business or delinquent business. Any other  
36 business may adopt and voluntarily enroll in the system. All costs associated with the  
37 purchasing and maintaining of the hardware and software of the automated sales and use  
38 tax transmission system shall be the responsibility of the business subject to any credit,  
39 offset, or adjustment as may be authorized by the director in the implementation of the  
40 system. The department shall notify any new business or delinquent business of the  
41 requirements of this section and such businesses shall have thirty calendar days to begin  
42 the operation of the system as provided in this chapter. Failure to comply within the thirty  
43 calendar days shall result in revocation of the business's state sales and use tax license in  
44 addition to other penalty provisions. All transaction fees associated with use of a credit  
45 or debit card shall be the responsibility of the businesses. The department shall provide  
46 a method for reconciliation of any taxes paid through the automated sales and use tax  
47 transmission system. This method of reconciliation shall be developed by the director so  
48 as to provide for an adjustment to the sales tax return of the merchant for returns of  
49 merchandise and for refunds paid to the purchaser.

50           **4. The director is authorized to contract with one or more third-party tax collection**  
51 **and remittance providers to implement and operate the automated sales and use tax**  
52 **collection system. The system, at a minimum, shall include:**

53           **(1) A process requiring participating businesses to use an electronic cash register**  
54 **system for the receipt and processing of all credit and debit transactions;**

55           **(2) A requirement that participating businesses electronically transmit all credit**  
56 **and debit transactions to their respective payment service provider at or near the time of**  
57 **the transaction, but not less than once per business day. Such transmittal may be by either**  
58 **a direct system-to-system interface between the businesses' electronic cash register system**  
59 **and the payment service provider or between an in-store data communication processor**  
60 **and the payment service provider;**

61           **(3) A requirement that the minimum data to be transmitted by the participating**  
62 **business to the payment service provider include:**

63           **(a) The total sale or return amount on credit and debit card transactions;**

64           **(b) The total taxable sale or taxable return amount on credit and debit card**  
65 **transactions;**

66           **(c) The total amount of sales or use tax applicable on credit and debit card**  
67 **transactions;**

68           **(d) A unique merchant identification number value indicating both the specific**  
69 **merchant for whom the transaction is being processed from which the payment service**  
70 **provider system can then derive the exact merchant involved in the transaction and the**  
71 **exact location from which the transaction is being processed;**

72           **(4) A process requiring the participating business to, once a business day,**  
73 **electronically transmit to the director or the director's contractual third-party tax**  
74 **collection and remittance provider, the cumulative amounts and information required in**  
75 **subdivision (3) of this subsection;**

76           **(5) A requirement that the payment service provider of the participating businesses**  
77 **electronically transmit to the director or the director's contractual third-party tax**  
78 **collection and remittance provider, at least once every business day, the information as to**  
79 **the sales tax applicable to each credit and debit card transaction along with the data**  
80 **required in subdivision (3) of this subsection. Such information shall include a cumulative**  
81 **net total of credit and debit transactions, incremented by sales transactions and offset by**  
82 **return transactions;**

83           **(6) A requirement that the director's contractual third-party tax collection and**  
84 **remittance provider provide to the merchant and the director a secure web portal with the**  
85 **following information:**

86           **(a) Information pertaining to the data listed in subdivision (3) of this subsection**  
87 **and, in addition, at the conclusion of each tax reporting period, a report that the merchant**  
88 **shall be able to download and print as relates to the total sales of the merchant in any tax**  
89 **month for which sales tax is levied, and the total amount of sales tax transmitted to the**  
90 **director's direct deposit account on behalf of that merchant by the director's contractual**  
91 **third-party tax collection and remittance provider;**

92           **(b) Information from the secure web portal made available to the director that**  
93 **reflects the total sales of the merchant in any tax month for which sales tax is levied, and**  
94 **the total amount of sales tax transmitted to the director's direct deposit account on behalf**  
95 **of that merchant by the director's contractual third-party tax collection and remittance**  
96 **provider.**

97           **5. The director shall establish a separate direct deposit account that shall receive**  
98 **the transmission of all sales tax instructed to be paid to the director's direct deposit account**  
99 **by the director or the director's contractual third-party tax collection and remittance**  
100 **provider, and the director shall authorize and require such deposits to be made to the**  
101 **director's direct deposit account on a daily business day basis.**

102           **6. At a specified time on each business day, each electronic cash register system**  
103 **shall transmit the data listed in subdivision (3) of subsection 4 of this section to the director**  
104 **or the director's contractual third-party tax collection and remittance provider.**

105           **7. Upon validating the amounts from the payment service provider, the director or**  
106 **the director's contractual third-party tax collection and remittance provider shall**  
107 **electronically generate instructions directing the payment service provider to remit taxes**  
108 **to the director's direct deposit account on behalf of the merchant business as follows:**

109           **(1) For each unique business location, the director or the director's contractual**  
110 **third-party tax collection and remittance provider shall make available to the director the**  
111 **information as it relates to the aggregate of the total tax amounts calculated by all of the**  
112 **electronic cash register systems as to credit and debit transactions at that business location**  
113 **via the secure web portal. The director's contractual third-party tax collection and**  
114 **remittance provider shall provide an interface between the merchant identification number**  
115 **value and the Missouri sales and use tax identification number assigned to the merchant**  
116 **business by the director through the secure web portal;**

117           **(2) The director or the director's contractual third-party tax collection and**  
118 **remittance provider shall forward the information as it relates to the aggregated total tax**  
119 **amount on credit and debit transactions to the payment service provider along with:**

120           **(a) A copy of the payment service provider's merchant identification number value**  
121 **and any other information required by the payment service provider in order to make a**

122 positive association of the business for whom taxes are being collected and remitted and  
123 the merchants' payment processing account with the payment service provider;

124 (b) A copy of the information to be included with the tax remittance to the director  
125 to identify the business and business location for which taxes are being remitted.

126 8. The director or the director's contractual third-party tax collection and  
127 remittance provider shall electronically generate instructions before daily settlement by the  
128 payment service provider, directing the payment service provider to remit taxes directly  
129 to the director's direct deposit account on behalf of the merchant business.

130 9. During the daily settlement process, for each business for which tax is being  
131 remitted to the director in accordance with instructions from the director or the director's  
132 contractual third-party tax collection and remittance provider, the payment service  
133 provider shall:

134 (1) Direct a portion of the cardholder payments to be settled to the indicated  
135 merchant business account, equal to the total tax amount of sales and use tax on credit and  
136 debit transactions to the direct deposit account of the director. The director's direct  
137 deposit account and the merchant's direct deposit account shall be specified during  
138 registration and configuration of the merchant business account when the business is  
139 enrolled in the automated sales and use tax collection system rather than solely to the  
140 businesses' direct deposit account alone;

141 (2) Direct the balance of the total deposits to be settled during any business day  
142 from the cardholder payments to the indicated merchant business account. In addition to  
143 the businesses' merchant direct deposit account the director's direct deposit account shall  
144 be set up in the automated sales and use tax collection system;

145 (3) Retain accurate totals of amounts remitted to the director's direct deposit  
146 account for each of the various participating businesses, including identifying information  
147 for such businesses as listed in paragraph (d) of subdivision (3) of subsection 4 of this  
148 section, for transmission to the director or the director's contractual third-party tax  
149 collection and remittance provider.

150 9. After settlement has been performed by the payment service provider, the  
151 payment service provider shall deliver a file containing the information retained in  
152 subdivision (3) of subsection 8 of this section back to the director or the director's  
153 contractual third-party tax collection and remittance provider.

154 10. (1) In the event that the director contracts with a third-party tax collection and  
155 remittance provider to implement and operate the automated sales and use tax collection  
156 system, the third-party tax collection and remittance provider shall retain records  
157 pertaining to the tax collection and remittance and make them available on a web portal

158 for the use of the director. The web portal shall provide the director with the ability to  
159 obtain reports for individual business locations, segregated or aggregated by a date with  
160 up to one hundred eighty-five days of history, business location, multiple locations within  
161 a single business, an individual business or all businesses to retrieve download files  
162 detailing all activity, including business tax identification and business location identifier.  
163 Such records maintained on the web portal shall include:

164 (a) Daily totals by location of gross sales amounts, taxable sales amounts, and tax  
165 amounts reported on all credit and debit transactions by all participating business  
166 locations;

167 (b) A record of all business identifiers and tax instructions provided to payment  
168 service providers as provided in this section;

169 (c) A record of all business identifiers, remittance and related amounts, and status  
170 and warning messages returned to the third-party tax collection and remittance provider  
171 by the payment service provider as provided in subsection 9 of this section.

172 (2) In the event of a settlement, the third-party tax collection and remittance  
173 provider shall electronically instruct that the sales and use tax collected be remitted within  
174 forty-eight hours.

175 (3) The third-party tax collection and remittance provider shall make available to  
176 the director a telephone-based customer-support capability during normal business hours  
177 for the purpose of responding to inquiries regarding participating businesses and tax  
178 payments.

179 (4) The third-party tax collection and remittance provider shall make available to  
180 the director an after-hours support telephone number for the purpose of receiving  
181 information regarding data processing service issues and responding to the director after  
182 normal business hours or next business day.

183 (5) Such contract shall be for the implementation and operation of the entire  
184 automated sales and use tax collection system and not for portions thereof.

185 11. Any new business or delinquent business that complies with the provisions of  
186 this section shall be exempt from the provisions of section 144.087 relating to the posting  
187 of a sales tax security bond.

188 12. Any business enrolled in the automated sales and use tax collection system shall  
189 be entitled to claim the allowance provided under section 144.140 for all sales and use tax  
190 collected and paid to the director for any tax reporting period, and shall be allowed to  
191 validate such allowance by attaching to all sales and use tax returns the monthly  
192 reconciliation report generated by the director's contractual third-party tax collection and  
193 remittance provider. Any returns or adjustments to previous months' sales for any tax

194 reporting period shall be validated and then credited as an adjustment against sales tax or  
195 use tax due when the returns or adjustments have been reflected on the monthly payment  
196 service provider's credit or debit card reconciliation reports.

197 **13. Any business with an annual filing status requirement under section 144.080**  
198 **shall be exempt from the provisions of this section. Businesses that file monthly sales tax**  
199 **returns and remit payments on a four-times per monthly basis shall be exempt from the**  
200 **implementation of the automated sales and use tax collection system.**

201 **14. The director may defer implementation of the automated sales and use tax**  
202 **collection system for certain businesses for which the integration of the business's existing**  
203 **system does not interface with the electronic cash register system as of July 1, 2013, such**  
204 **as pay at the pump petroleum service stations applications and hotel or motel reservation**  
205 **systems with integrated payments. Integration of such systems shall be implemented as**  
206 **promptly as reasonably possible.**

207 **15. The department of revenue may promulgate rules to implement the provisions**  
208 **of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that**  
209 **is created under the authority delegated in this section shall become effective only if it**  
210 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
211 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**  
212 **vested with the general assembly under chapter 536 to review, to delay the effective date,**  
213 **or to disapprove and annul a rule are subsequently held unconstitutional, then the grant**  
214 **of rulemaking authority and any rule proposed or adopted after August 28, 2012, shall be**  
215 **invalid and void.**

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